

**OZARK VALLEY RAILROAD, INC.  
Employer Status Determination**

This is a determination of the Railroad Retirement Board concerning the status of Ozark Valley Railroad, Inc. (OVR) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.)(RRA) and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.)(RUIA).

In a decision dated June 1, 2007 (Finance Docket No. 34989), the Surface Transportation Board considered a notice of exemption filed by OVR to acquire from Kansas City Southern Railway Company (KCSR) and to operate a portion of the KCSR Fulton Branch. The operation of the KCSR Fulton Branch is between milepost 3.0 near Mexico, Missouri, and milepost 24.99 at Fulton, Missouri. OVR and KCSR also agreed that OVR will lease and operate the portion of the Fulton Branch between milepost 0.0 and milepost 3.0 (3 miles). OVR also acquired from KCSR and provides operation over incidental and overhead trackage rights to interchange over the portion of the KCSR Roadhouse Subdivision from milepost 321.0 near Arthur, Missouri, to milepost 329.00 near Mexico, including the connection with the Fulton Branch at milepost 326.3 at Mexico, and designated yard tracks at Mexico. The STB decision further stated that the lines total approximately 24.99 miles of acquired or leased line and approximately 8 miles of overhead or incidental trackage rights that are located in Audrain and Callaway Counties, Missouri.

Mr. Michael Williams is the president of OVR, which began rail operations on July 3, 2007. OVR currently has one employee who began working for OVR on July 2, 2007 and was first compensated on July 15, 2007. OVR intends to hire another employee in the near future. Although OVR has one employee, employees of BG&CM Railroad, Inc. (B.A. No.4654)<sup>1</sup> and Washington & Idaho Railroad Inc<sup>2</sup>. will provide rail operations for OVR until OVR's employees are properly qualified to operate rail services. OVR operates Monday through Friday over the leased trackage in Mexico, Missouri. However, OVR advised the Board that once the rehabilitation work project is completed on the Arthur Spur line, operations should resume on the line by August 1, 2007. OVR further advised the Board that it expects to transport 1300 cars and interchanges with KCSR.

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<sup>1</sup> The Board notes that Mr. Michael Williams is also owner of BG & CM Railroad.

<sup>2</sup> A determination of whether Washington & Idaho Railroad, Inc. is a covered employer under the RRA and the RUIA, is addressed in a separate decision by the Board.

Section 1(a)(1) of the RRA defines the term “employer” to include:

(i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under Part A of subtitle IV of Title 49;

Section 1 of the RUIA contains the same definition.

The evidence of record establishes that Ozark Valley Railroad, Inc. is a rail carrier operating in interstate commerce. Accordingly, it is determined that Ozark Valley Railroad, Inc. became an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act and its corresponding provision of the Railroad Unemployment Insurance Act effective July 2, 2007, the date its first employee began to work for it. See 1982-1 C.B. 155, wherein the Internal Revenue Service held that a company becomes an employer subject to taxes under the Railroad Retirement Tax Act on the date the company first hires employees to perform functions directly related to its carrier operations.

Original signed by:

Michael S. Schwartz

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